

REQUEST FOR PROPOSALS

ISSUE DATE: May 29, 2007 **RFP #****AR07-02**

TITLE: Fabrication, Transport and Deployment of Designed Concrete Structures on Virginia Artificial Reefs in the Chesapeake Bay

COMMODITY CODE: 95965

ISSUING AGENCY: Commonwealth of Virginia
Marine Resources Commission
2600 Washington Avenue, 3rd Floor
Newport News, Virginia 23607

WORK LOCATION: Contractor's place of business, deployment sites in the Chesapeake Bay - Poquoson Reef and Northern Neck Reef.

PERIOD OF CONTRACT: From date of award to November 30, 2007.

SEALED PROPOSALS WILL BE RECEIVED UNTIL June 22, 2007 AT 2:00 P.M. FOR FURNISHING THE SERVICES DESCRIBED HEREIN. LATE PROPOSALS WILL NOT BE CONSIDERED.

ALL INQUIRIES FOR INFORMATION SHOULD BE DIRECTED TO:

Mike Meier
Telephone (757) 247-2263

SEND PROPOSALS DIRECTLY TO:

Terri A. Short
Marine Resources Commission
2600 Washington Ave., 3rd Floor
Newport News, Virginia 23607
(757) 247-2260

OR HAND DELIVER TO:

Terri A. Short
Marine Resources Commission
2600 Washington Avenue, 3rd Floor
Newport News, Virginia 23607

Name and Address of Firm

I. PURPOSE:

The purpose of this Request for Proposal (RFP) is to solicit sealed proposals to establish a contract through competitive negotiation for the fabrication, transport, and deployment of designed concrete structures on two Virginia Artificial Reef sites in the Chesapeake Bay.

II. BACKGROUND:

Virginia's state-supported Artificial Reef Program (Program) is a function of the Virginia Marine Resources Commission (VMRC). Our primary Program mission is to develop habitat for finfish in Virginia's Chesapeake Bay and coastal waters. This is accomplished by benthic placement of various types of structure in estuarine and ocean environments. This structure may consist of various materials of opportunity such as steel-hulled vessels and concrete rubble or specifically designed habitat-providing structures, as is the case with this request for proposal. All structures and materials used must be environmentally acceptable and approved for use under state and federal permits held by the Program. Virginia's artificial reef permits authorize the deployment of designed reef units. After placement in the marine environment, these structures become artificial reefs, which attract finfish by providing areas for orientation, forage and protection from predators and currents.

III. SCOPE OF WORK/STATEMENT OF NEEDS:

a. DESCRIPTION:

The Contractor will furnish all services to fabricate, transport and deploy designed artificial reef structures on two reefs in Virginia's Chesapeake Bay waters. All engineering services, personnel, handling equipment and towing equipment will be provided by the Contractor. All phases of this project will be coordinated with the VMRC Artificial Reef Program and appropriate subcontractors to ensure that all work is completed in accordance with the specifications set forth in this RFP.

Specifications for the structures are provided. Proposals are being requested for the fabrication and placement of structures in quantities of 150 units per each of the two sites. All structures should be designed for placement in an estuarine environment (Chesapeake Bay) and afford structural durability and physical stability in water depths ranging from 17-32 feet

-Fabricate artificial reef units in accordance with the specifications in this Request For Proposals (RFP). Engineering drawings of the offered structures and a description of the recommended concrete formula, including any admixtures (accelerants, retardants, etc.) and form release agents must be included.

-Handle, haul, load and deploy the completed structures on Chesapeake Bay artificial reefs.

-Provide all engineering services, personnel, handling equipment and towing equipment.

-Coordinate all phases of this work with the VMRC Artificial Reef Program and

appropriate subcontractors to ensure that all work is completed in accordance with the specifications set forth in this RFP.

b. DESCRIPTION OF STRUCTURES

The artificial reef units are to be constructed of marine grade (Type II), high PSI (3,000 lb. minimum) concrete. They may be configured as a dome, cone, pyramid, tetrahedron or other similarly shaped configuration that will provide stability, once deployed.

The structure is to be designed with a hollow interior cavity and equipped with holes in the top, bottom and sides. Top and bottom holes should have a minimum inside diameter of 12 inches. Side holes may vary in number (minimum 12-20) and size. The units do not require internal reinforcement; however, they must be designed and constructed with a minimum wall thickness sufficient for unit to withstand the rigors of handling and deployment. A lifting bale may be incorporated to facilitate deployment. Units should have a base diameter of approximately four (4) feet and a height of three (3) to six (6) feet.

c. CONCRETE SPECIFICATIONS

Concrete must be a minimum of 3,000 PSI, Type II, suitable for long duration in a salt-water environment. Reef units cannot be constructed using concrete mixtures that contain known toxic, or potentially toxic components that might leach or bio-accumulate. Such mixtures would include combustion/incineration ash and biologically untested chemical accelerators or retardants. This standard also applies to any form release agents used. As previously referenced, consideration must be given in the formulation of concrete mixtures to ensure the reef structures can withstand the stresses associated with loading, hauling and deployment, while allowing for minimal breakage. See Section III d, "QUALITY CONTROL".

The surface finish of the structures is to be roughened, to facilitate biological fouling. A food grade white sugar water solution or other non-toxic surface retardant may be used on the molds to produce the roughened surface texture.

d. QUALITY CONTROL

All reef unit fabrication shall follow the best commercial construction practices and meet the specifications set forth in this request for proposal. Handling of units shall be conducted to insure against breakage.

Prior to entering full production, the contractor must fabricate full-sized prototypes of the units to be provided. These units will be made available to VMRC Artificial Reef Program personnel for pre-production approval. Full-scale production may begin after the contractor receives written approval of the prototypes from the Reef Program. The Artificial Reef Program will inspect reef units for adherence to specifications during the production process. The contractor will be notified in writing of any discrepancies or rejection of units. All reef units will again be subject to a final inspection, prior to deployment. The contractor may request advisory inspections at any time during fabrication of the

units, in case there are any questions or concerns. Artificial Reef Program personnel or authorized representatives will be on site during offloading to document deployment count of intact units. Damaged units (broken or cracked) may be deployed, but will not count toward fulfillment of contract quota.

e. HANDLING, LOADING AND TRANSPORT OF REEF UNITS

The contractor will provide suitable equipment for all handling, loading, transport and deployment of reef units from the point of fabrication to placement on the reef site. All loading, handling and deployment operations during all phases of this project shall be done to minimize the possibility of damage to the units.

The contractor may load the barge with material for one or more deployments, as long as the load is either segregated or demarcated to indicate the proper number of reef units destined for each reef site.

f. CHESAPEAKE BAY DEPLOYMENT OF ARTIFICIAL REEF UNITS

The described units will be deployed in equal amounts on the following permitted artificial reef sites:

Poquoson Reef

Located in SW Chesapeake Bay (shown on NOAA Chart #12238), east of Goodwin Island on the western side of the Poquoson River entrance channel, 100 yards off the channel, in 17-26 feet of water with an authorized minimum clearance of 15 feet at Mean Low Water. See attached drawing.

Northern Neck Reef

Located in Chesapeake Bay (shown on NOAA Chart #12225), centered 5.5 nautical miles east of Great Wicomico River Light, in 28-32 feet of water with an authorized minimum clearance of 15 feet at Mean Low Water. See attached drawing. (Note – the chart depiction of this reef is slightly south and east of the actual permitted location. L/L coordinates are given on the referenced drawing.)

Operations associated with deployment of reef units include:

Proper loading of reef units on a seaworthy barge(s) for transport of such structures on Chesapeake Bay; transport of the units to the designated reef sites; positioning each barge load so that structures are off-loaded in the precise location indicated by VMRC Artificial Reef Program personnel or authorized representative (who will meet the barge and tug on location and place a marker buoy or buoys which will signify the deployment location); safely offloading the reef units; ensuring the units land so as to provide proper navigational clearance.

In reference to these operations, the following conditions must be observed:

- 1) Reef units loaded onto the contractor's barge(s) must be properly loaded and secured to allow for their secure transport on Chesapeake Bay.

- 2) The tug towing the loaded barge will be sufficiently powered and otherwise equipped for towing.
- 3) The tug will be sufficiently powered and maneuverable for position and station keeping during all phases of the deployment.
- 4) The tug will be equipped with an operational, accurate GPS receiver, fathometer, radar and other marine electronics, including an operational VHF radio.
- 5) Any machinery used to deploy reef units should be appropriate to the task at hand, sufficiently maintained, powered and maneuverable and capably operated to ensure efficient, accurate and safe off-loading of units.
- 6) Reliable communications must exist at all times during the operation between the tug, barge and Reef Program personnel; or authorized representatives on site.
- 7) The contractor must ensure that all appropriate insurance coverage, certifications and licenses, for both operators/captains/crew and equipment needed for this work are current.

The contractor must provide Artificial Reef Program personnel with a minimum of 48 hours notice, prior to intended deployments. Reef Program personnel will coordinate with the contractor, regarding schedules, planned operations and specific deployment locations. A Reef Program provided vessel will be on site to monitor the deployment operation. The vessel will be equipped with a fathometer to ensure the maintenance of required clearance. The Program vessel will periodically halt deployment operations, as well as at the request of the contractor, to make transect runs over the immediate placement location. No deployments will be conducted unless Reef Program personnel, or a designated representative(s) are on scene. Infractions of clearance or positioning will be remediated by the contractor at the time of discovery, on-site. In the event that equipment or other failures preclude immediate remediation of a clearance or positioning infraction, the contractor shall station a vessel to remain on location until such infraction is corrected.

Weather, especially sea conditions, is a critical factor in assuring safe and effective deployment of reef materials. For this reason, deployment operations will only be conducted when sea conditions in the operations area are judged acceptable to both the contractor and the Artificial Reef Program; however, THE ARTIFICIAL REEF PROGRAM RESERVES THE RIGHT TO SUSPEND OFF-LOADING OPERATIONS, IF POSITIONING AND OTHER DEPLOYMENT CRITERIA ARE NOT BEING MET.

IV. PROPOSAL PREPARATION AND SUBMISSION REQUIREMENTS

A. GENERAL INSTRUCTIONS:

1. RFP Response: In order to be considered for selection, offerors must submit a complete response to this RFP. One (1) original and three (3) copies of each proposal must be submitted to the VMRC. No other distribution of the proposals shall be made by the offeror.
2. Proposal Preparation:
 - a. Proposals shall be signed by an authorized representative of the offeror.

All information requested must be submitted. Failure to submit all information requested may result in the purchasing agency requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal. Proposals which are substantially incomplete or lack key information may be rejected by the purchasing agency. Mandatory requirements are those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.

- b. Proposals should be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content.
- c. Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal should be numbered. Each paragraph in the proposal should reference the paragraph number of the corresponding section of the RFP. It is also helpful to cite the paragraph number, subletter, and repeat the text of the requirement as it appears in the RFP. If a response covers more than one page, the paragraph number and subletter should be repeated at the top of the next page. The proposal should contain a table of contents which cross - references the RFP requirements. Information which the offeror desires to present that does not fall within any of the requirements of the RFP should be inserted at an appropriate place or be attached at the end of the proposal and designated as additional material. Proposals that are not organized in this manner risk elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed.
- d. As used in this RFP, the terms “must”, “shall”, “should” and “may” identify the criticality of requirements. “Must” and “shall” identify requirements whose absence will have a major negative impact on the suitability of the proposed solution. Items labeled as “should” or “may” are highly desirable, although their absence will not have a large impact and would be useful, but are not necessary. Depending on the overall response to the RFP, some individual “must” and “shall” items may not be fully satisfied, but it is the intent to satisfy most, if not all, “must” and “shall” requirements. The inability of an Offeror to satisfy a “must” or “shall” requirement does not automatically remove that Offeror from consideration, however, it may seriously affect the overall rating of the Offeror’s proposal.
- e. Each copy of the proposal should be bound or contained in a single volume where practical. All documentation submitted with the proposal should be bound in that single volume.

- f. Ownership of all data, materials, and documentation originated and prepared for the State pursuant to the RFP shall belong exclusively to the State and be subject to public inspection in accordance with the *Virginia Freedom of Information Act*. Trade secrets or proprietary information submitted by an offeror shall not be subject to public disclosure under the *Virginia Freedom of Information Act*; however, the offeror must invoke the protections of Section 2.2-4342F of the Code of Virginia, in writing, either before or at the time the data or other material is submitted. The written notice must specifically identify the data or materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or propriety information. The classification of an entire proposal document, line item prices and/or total proposal prices as propriety or trade secrets is not acceptable and will result in rejection of the proposal.

- 3. Oral Presentation: Offerors who submit a proposal in response to this RFP may be required to give an oral presentation of their proposal to the VMRC. This provides an opportunity for the offeror to clarify or to elaborate on the proposal. This is a fact-finding and explanation session only and does not include negotiation. The VMRC will schedule the time and location of these presentations. Oral presentations are an option of the purchasing agency and may or may not be conducted.

B. SPECIFIC PROPOSAL INSTRUCTIONS:

Proposals should be as thorough and detailed as possible so that the Virginia Marine Resources Commission may properly evaluate your capabilities to provide the required services. Offerors are required to submit the following items as a complete proposal:

- a. The return of this complete RFP and all addenda acknowledgements, signed, and filled out as required.
- b. Offeror Data Sheet (Attachment A), and if applicable, Subcontractor Data Sheet (Attachment B) and other specific items or data requested in the RFP.
- c. A written narrative statement to include:
 - 1. A written and/or graphic time-line and approach outline for completion of entire project from structure fabrication to deployment, to include use of any proposed subcontractors.
 - 2. Detailed statement of the projected functional life span and in-situ

stability of the reef structures being offered. The basis for, or source of, any stability figures should be included; that is wave tank study, in-situ observation of previous structure deployments, etc.

3. Summary of previous placements of similar structures in estuarine environments.
 4. Square footage of fouling surface afforded by the proposed units. Include all calculations used to derive these figures.
 5. Engineering drawings of the offered structures and a description of the recommended concrete formula, including any admixtures (accelerants and retardants). Form release agents must be included.
- d. Completion of information required in Section XI, Pricing Schedule.
- e. Small Business Subcontracting Plan – Summarize the planned utilization of DMBE-certified small businesses which include businesses owned by women and minorities, when they have received DMBE small business certification, under the contract to be awarded as a result of this solicitation. This is a requirement for all prime contracts in excess of \$100,000. Also summarize any good faith efforts planned to provide subcontracting opportunities to DMBE-certified small business firms. Complete Annex 7-G.

V. EVALUATION AND AWARD CRITERIA: Proposals shall be evaluated by the Marine Resources Commission using the following criteria:

A. <u>Evaluation Criteria</u>	<u>Percentage Value</u>
1. Total number of square feet of fouling surface afforded by each unit	20%
2. Total delivered price per unit, with cost per square foot of afforded fouling surface broken out separately	20%
3. In-situ life expectancy of proposed structures	20%
4. Total time required for completion of the entire project	20%
5. Use of Minority, Small and Women-owned businesses	20%
TOTAL	100%

- C. **AWARD CRITERIA:** Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the Request for Proposals, including price, if so stated in the Request for Proposals. Negotiations shall be conducted with the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the agency shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to the offeror. The Commonwealth may cancel this Request for Proposals or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous (*Code of Virginia*, Section 2.2-4359D). Should the Commonwealth determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror. The award document will be a contract incorporating by reference all the requirements, terms and conditions of the solicitation and the contractor's proposal as negotiated.

VI. REPORTING AND DELIVERY INSTRUCTIONS:

Where it is practicable for any portion of the awarded contract to be subcontracted to other suppliers, the contractor is encouraged to offer such subcontracting opportunities to small businesses. This shall include DMBE-certified women-owned and minority-owned businesses when they have received DMBE small business certification. If small business subcontractors are used, the prime contractor agrees to report the use of small business subcontractors by providing the purchasing office at a minimum the following information: name of small business, phone number, total dollar amount subcontracted, category type (small, women-owned, or minority-owned), and type of product/service provided.

- VII. **PREPROPOSAL CONFERENCE:** An **optional** preproposal conference will be held on **June 12 , 2007, at 2:00 p.m.** at Marine Resources Commission, 2600 Washington Ave, 3rd Floor, Newport News, VA 23607. Contact Mike Meier at 757-247-2263 for additional information

VIII. GENERAL TERMS AND CONDITIONS:

A. **VENDORS MANUAL:** This solicitation is subject to the provisions of the Commonwealth of Virginia *Vendors Manual* and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The procedure for filing contractual claims is in section 7.19 of the *Vendors Manual*. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at www.dgs.state.va.us/dps under "Manuals."

B. **APPLICABLE LAWS AND COURTS:** This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.

C. ANTI-DISCRIMINATION: By submitting their proposals, offerors certify to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
2. The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

D. ETHICS IN PUBLIC CONTRACTING: By submitting their proposals, offerors certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor in connection with their (bid/proposal), and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

E. IMMIGRATION REFORM AND CONTROL ACT OF 1986: By submitting their proposals, offerors certify that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

F. DEBARMENT STATUS: By submitting their proposals, offerors certify that they are not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.

G. ANTITRUST: By entering into a contract, the contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said contract.

H. MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS FOR RFPs :

Failure to submit a proposal on the official state form provided for that purpose may be a cause for rejection of the proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the proposal; however, the Commonwealth reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a proposal.

I. CLARIFICATION OF TERMS: If any prospective offeror has questions about the specifications or other solicitation documents, the prospective offeror should contact the buyer whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the buyer.

J. PAYMENT:

1. To Prime Contractor:

- a. Invoices for items ordered, delivered and accepted shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
- b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
- c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which public agency is being billed.
- d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.

- e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Commonwealth shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia*, § 2.2-4363).
2. To Subcontractors:
- a. A contractor awarded a contract under this solicitation is hereby obligated:
 - (1) To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from the Commonwealth for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
 - (2) To notify the agency and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.
 - b. The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.

K. PRECEDENCE OF TERMS: The following General Terms and Conditions *VENDORS MANUAL*, APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, ANTITRUST, MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS, CLARIFICATION OF TERMS, PAYMENT shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

L. QUALIFICATIONS OF OFFERORS: The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the offeror to perform the services/furnish the goods and the offeror shall furnish to the Commonwealth all such information and data for this purpose as may be requested. The Commonwealth reserves the right to inspect offeror's

physical facilities prior to award to satisfy questions regarding the offeror's capabilities. The Commonwealth further reserves the right to reject any (bid/proposal) if the evidence submitted by, or investigations of, such offeror fails to satisfy the Commonwealth that such offeror is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.

M. TESTING AND INSPECTION: The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

N. ASSIGNMENT OF CONTRACT: A contract shall not be assignable by the contractor in whole or in part without the written consent of the Commonwealth.

O. CHANGES TO THE CONTRACT: Changes can be made to the contract in any of the following ways:

1. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.
2. The Purchasing Agency may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt. The contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings. Said compensation shall be determined by one of the following methods:
 - a. By mutual agreement between the parties in writing; or
 - b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the Purchasing Agency's right to audit the contractor's records and/or to determine the correct number of units independently; or
 - c. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the Purchasing Agency with all vouchers and records of expenses incurred and savings realized. The Purchasing Agency shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Purchasing Agency within thirty (30) days from the date of receipt of the written order from the Purchasing Agency. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the

disputes provisions of the Commonwealth of Virginia *Vendors Manual*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the Purchasing Agency or with the performance of the contract generally.

P. DEFAULT: In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Commonwealth, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Commonwealth may have.

Q. TAXES: Sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against this contract shall usually be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.

R. USE OF BRAND NAMES: Unless otherwise provided in this solicitation, the name of a certain brand, make or manufacturer does not restrict offerors to the specific brand, make or manufacturer named, but conveys the general style, type, character, and quality of the article desired. Any article which the public body, in its sole discretion, determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. The offeror is responsible to clearly and specifically identify the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable the Commonwealth to determine if the product offered meets the requirements of the solicitation. This is required even if offering the exact brand, make or manufacturer specified. Normally in competitive sealed bidding only the information furnished with the bid will be considered in the evaluation. Failure to furnish adequate data for evaluation purposes may result in declaring a bid nonresponsive. Unless the offeror clearly indicates in its proposal that the product offered is an equal product, such proposal will be considered to offer the brand name product referenced in the solicitation.

S. TRANSPORTATION AND PACKAGING: By submitting their proposals), all offerors certify and warrant that the price offered for FOB destination includes only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping containers shall be used. All shipping containers shall be legibly marked or labeled on the outside with purchase order number, commodity description, and quantity.

T. INSURANCE: By signing and submitting a bid or proposal under this solicitation, the offeror certifies that if awarded the contract, it will have the following insurance coverages at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The offeror further certifies that the contractor and any subcontractors will maintain these insurance coverages during the entire term of the contract and that all insurance coverages will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

INSURANCE COVERAGES AND LIMITS REQUIRED:

1. Workers' Compensation - Statutory requirements and benefits.
2. Employer's Liability - \$100,000.
3. Commercial General Liability - \$1,000,000 combined single limit. Commercial General Liability is to include Premises/Operations Liability, Products and Completed Operations Coverage, and Independent Contractor's Liability or Owner's and Contractor's Protective Liability. The Commonwealth of Virginia must be named as an additional insured when requiring a Contractor to obtain Commercial General Liability coverage.
4. Automobile Liability - \$1,000,000 - Combined single limit. (Only used if motor vehicle is to be used in the contract.)
5. Watercraft policy with a combined single limit of \$1,000,000 for protection and indemnity coverage.

U. ANNOUNCEMENT OF AWARD: Upon the award or the announcement of the decision to award a contract over \$30,000, as a result of this solicitation, the purchasing agency will publicly post such notice on the DGS/DPS eVA web site (www.eva.virginia.gov) for a minimum of 10 days.

V. DRUG-FREE WORKPLACE: During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

W. NONDISCRIMINATION OF CONTRACTORS: An offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall

offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

X. eVA BUSINESS TO GOVERNMENT VENDOR REGISTRATION: The eVA Internet electronic procurement solution, website portal www.eVA.virginia.gov, streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution either through the eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service. All bidders or offerors must register in eVA; failure to register will result in the bid/proposal being rejected.

- a. eVA Basic Vendor Registration Service: \$25 Annual Registration Fee plus the appropriate order Transaction Fee specified below. eVA Basic Vendor Registration Service includes electronic order receipt, vendor catalog posting, on-line registration, electronic bidding, and the ability to research historical procurement data available in the eVA purchase transaction data warehouse.
- b. eVA Premium Vendor Registration Service: \$25 Annual Registration Fee plus the appropriate order Transaction Fee specified below. eVA Premium Vendor Registration Service includes all benefits of the eVA Basic Vendor Registration Service plus automatic email or fax notification of solicitations and amendments.
- c. For orders issued prior to August 16, 2006, the Vendor Transaction Fee is 1%, capped at a maximum of \$500 per order.
- d. For orders issued August 16, 2006 and after, the Vendor Transaction Fee is:
 - (i) DMBE-certified Small Businesses: 1%, capped at \$500 per order.
 - (ii) Businesses that are not DMBE-certified Small Businesses: 1%, capped at \$1,500 per order

Y. AVAILABILITY OF FUNDS: It is understood and agreed between the parties herein that the agency shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.

IX. SPECIAL TERMS AND CONDITIONS:

A. ADVERTISING: In the event a contract is awarded for supplies, equipment, or services resulting from this proposal, no indication of such sales or services to the Virginia Marine Resources Commission will be used in product literature or advertising. The Contractor shall not state in any of its advertising or product literature that the Commonwealth of Virginia or any agency or institution of the Commonwealth has purchased or uses its products or services.

B. AUDIT: The Contractor shall retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The agency, its authorized agents, and/or State auditors shall

have full access to and the right to examine any of said materials during said period.

C. **AWARD OF CONTRACT:** Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the Request for Proposals, including price, if so stated in the Request for Proposals. Negotiations shall be conducted with the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the agency shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. The Commonwealth may cancel this Request for Proposals or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous (*Code of Virginia*, Section 2.2-4395D). Should the Commonwealth determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror. The award document will be a contract incorporating by reference all the requirements, terms and conditions of the solicitation and the contractor's proposal as negotiated.

D. **PROPOSAL ACCEPTANCE PERIOD:** Any proposal in response to this solicitation shall be valid for 90 days. At the end of the 90 days, the proposal may be withdrawn at the written request of the offeror. If the proposal is not withdrawn at that time, it remains in effect until an award is made or the solicitation is cancelled.

E. **PROPOSAL PRICES:** Proposal prices shall be as requested in Section XI, Pricing Schedule.

F. **BEST AND FINAL OFFER:** At the conclusion of negotiations, the offeror(s) may be asked negotiations shall be conducted with the offeror(s). The offeror's proposal will be rescored to combine and include the information contained in the BAFO. The decision to award will be based on the final evaluation including the BAFO.

G. **BID ACCEPTANCE PERIOD:** Any bid in response to this solicitation shall be valid for 120 days. At the end of the 120 days the bid may be withdrawn at the written request of the bidder. If the bid is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.

H. **CANCELLATION OF CONTRACT:** The purchasing agency reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon 15 days written notice to the Contractor. Any contract cancellation notice shall not relieve the Contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.

I. **CONTRACT EXTENSION:** Contract end date may be extended by mutual agreement between the Marine Resources commission and the Contractor. No other terms of the contract shall change.

J. CONTRACTOR'S TITLE TO MATERIALS: No materials or supplies for the work shall be purchased by the Contractor or by any subcontractor subject to any chattel mortgage or under a conditional sales or other agreement by which an interest is retained by the seller. The Contractor warrants that he has clear title to all materials and supplies for which he invoices for payment.

K. IDENTIFICATION OF PROPOSAL ENVELOPE: If a special envelope is not furnished, or if return in the special envelope is not possible, the signed proposal should be returned in a separate envelope or package, sealed and identified as follows:

From: _____	<u>June 22, 2007 2:00 p.m.</u>
Name of Offeror	Due Date Time
_____	<u>RFP# AR07-02</u>
Street of Box Number	RFP Number
	Fabrication, Transport and Deployment of Designed Concrete Structures on Virginia Artificial Reefs in the Chesapeake Bay
_____	<u>RFP Title</u>
City, State, Zip Code	
Name of Contract/Purchase Officer or Buyer _____	<u>Terri A. Short</u>

The envelope should be addressed as directed on Page 1 of the solicitation.

If a proposal not contained in the special envelope is mailed, the offeror takes the risk that the envelope, even if marked as described above, may be inadvertently opened and the information compromised which may cause the proposal to be disqualified.

Proposals may be hand delivered to the designated location in the office issuing the solicitation. No other correspondence or other proposals should be placed in the envelope.

L. INSPECTION OF JOB SITE: My signature on this solicitation constitutes certification that I have inspected the job site and am aware of the conditions under which the work must be accomplished. Claims, as a result of failure to inspect the job site, will not be considered by the Commonwealth.

M. MINORITY/WOMEN-OWNED BUSINESSES SUBCONTRACTING AND REPORTING: Where it is practicable for any portion of the awarded contract to be subcontracted to other suppliers, the Contractor is encouraged to offer such business to minority and/or women-owned businesses. Names of firms may be available from the buyer and/or from the Division of Purchases and Supply. When such business has been subcontracted to these firms and upon completion of the contract, the Contractor agrees to furnish the purchasing office the following information: name of firm, phone number, total dollar amount subcontracted and type of product/service provided.

N. PRIME CONTRACTOR RESPONSIBILITIES: The Contractor shall be responsible for completely supervising and directing the work under this contract and all subcontractors that he may utilize, using his best skill and attention. Subcontractors who perform work under this contract shall be responsible to the prime Contractor. The Contractor agrees that he is as fully responsible for the acts and omissions of his subcontractors and of persons employed by them as he is for the acts and omissions of his own employees.

O. SUBCONTRACTS: No portion of the work shall be subcontracted without prior written consent of the purchasing agency. In the event that the Contractor desires to subcontract some part of the work specified herein, the Contractor shall furnish the purchasing agency the names, qualifications, and experience of their proposed subcontractors. The Contractor shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the contract.

P. WORK SITE DAMAGES: Any damage to existing utilities, equipment or finished surfaces resulting from the performance of this contract shall be repaired to the Commonwealth's satisfaction at the Contractor's expense.

Q. COMPLETION OF ATTACHMENT A, B AND ANNEX 7-g:

Attachment A - Offeror data sheet, and if applicable,

Attachment B - one page for each subcontractor to be utilized, must be completed in full and returned with the proposal package.

Annex 7-G – Small Business subcontracting plan.

R. APPLICABLE U. S. COAST GUARD LICENSES AND REGULATIONS: Operators of all vessels used for deployment shall present, upon request, applicable U. S. Coast Guard licenses and shall obey all applicable U. S. Coast Guard regulations at all times during operations under this contract.

S. HAZARD TO NAVIGATION: Contractor shall not create a hazard to navigation while performing under this contract. Any such hazard to navigation created by the Contractor while performing under this contract shall be removed or eliminated at his expense.

X. METHOD OF PAYMENT: The contractor will be paid on the basis of invoices submitted after satisfactory completion of the total job. All copies of the invoices shall be forwarded directly to the using agency or wherever otherwise designated. Payments will be made directly to the contractor, who will be responsible for payments to all subcontractors. Payments will be made in accordance with the Virginia Prompt Payment Act.

XI. PRICING SCHEDULE:

Bidders will provide a price per unit figure for each reef site at each of the specified quantity breaks:

<u>Deployment Location</u>		<u>Price Per Unit Deployed</u>
Poquoson Reef	150 units	_____
Northern Neck Reef	150 units	_____

XII. ATTACHMENTS: Offeror Data Sheet, Attachment A; Subcontractor Data Sheet, Attachment B; and 7-G, Small Business Subcontracting Plan.

ATTACHMENT A TO RFP #AR07-02

OFFEROR DATA SHEET

TO BE COMPLETED BY OFFEROR

1. QUALIFICATION OF CONTRACTOR:

The offeror must have the capability and capacity in all respects to fully satisfy all the contractual agreements.

2. YEARS IN BUSINESS:

Indicate the length of time you have been in business providing this type of service:

_____ Years _____ Months

3. REFERENCES:

Indicate below a listing of at least four (4) recent references for whom you have provided this type of service. Include the date service was furnished and the name, address and phone number of the person the purchasing agency has your permission to contact.

<u>CLIENT</u>	<u>ADDRESS</u>	<u>DATE OF SERVICE</u>	<u>PERSON TO CONTACT AND PHONE NUMBER</u>

ATTACHMENT B TO RFP #AR07-02

SUBCONTRACTOR DATA SHEET

TO BE COMPLETED BY OFFEROR

COMPLETE ONE SHEET FOR EACH SUBCONTRACTOR TO BE USED

1. CONTRACTOR INFORMATION:

Company Name: _____

Address: _____

Telephone: () _____ - _____

2. QUALIFICATION OF CONTRACTOR: The Contractor must have the capability and capacity in all respects to fully satisfy all of the contractual requirements.

3. YEARS IN BUSINESS: Indicate the length of time Contractor has been in business providing this type of service: _____ years _____ months.

4. REFERENCES: Indicate below a listing of at least four (4) recent references for whom Contractor has provided this type of service. Include the date service was furnished and the name and address of the person the agency has your permission to contact.

			PERSON TO CONTACT
CLIENT	DATE	ADDRESS	AND PHONE NUMBER

Annex 7-G

Small Business Subcontracting Plan

Definitions

Small Business: "Small business " means an independently owned and operated business which, together with affiliates, has 250 or fewer employees, or average annual gross receipts of \$10 million or less averaged over the previous three years. Note: DMBE-certified women- and minority-owned businesses shall also be considered small businesses when they have received DMBE small business certification.

Women-Owned Business: Women-owned business means a business concern that is at least 51% owned by one or more women who are citizens of the United States or non-citizens who are in full compliance with United States immigration law, or in the case of a corporation, partnership or limited liability company or other entity, at least 51% of the equity ownership interest is owned by one or more women who are citizens of the United States or non-citizens who are in full compliance with United States immigration law, and both the management and daily business operations are controlled by one or more women who are citizens of the United States or non-citizens who are in full compliance with the United States immigration law.

Minority-Owned Business: Minority-owned business means a business concern that is at least 51% owned by one or more minority individuals or in the case of a corporation, partnership or limited liability company or other entity, at least 51% of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals and both the management and daily business operations are controlled by one or more minority individuals.

All small businesses must be certified by the Commonwealth of Virginia, Department of Minority Business Enterprise (DMBE) to participate in the SWAM program. Certification applications are available through DMBE online at www.dmbv.virginia.gov (Customer Service).

Bidder/Offeror Name: _____

Preparer Name: _____ **Date:** _____

Instructions

- A. If you are certified by the Department of Minority Business Enterprise (DMBE) as a small business, complete only Section A of this form. This shall include DMBE-certified women-owned and minority-owned businesses when they have received DMBE small business certification.
- B. If you are not certified by DMBE as a small business and plan to subcontract part of this contract with a DMBE certified business, complete only Section B of this form.
- C. If you are not certified by DMBE as a small business and cannot identify any subcontracting opportunities to subcontract part of this contract with a DMBE-certified business, only provide the information requested in Section C of this form.

Section A

If your firm is certified by the Department of Minority Business Enterprise (DMBE), are you certified as a **(check only one below)**:

_____ Small Business

_____ Small and Women-owned Business

_____ Small and Minority-owned Business

Certification number: _____
date: _____

Certification

Section B

Populate the table below to show your firm's plans for utilization of DMBE-certified small businesses in the performance of this contract. This shall include DMBE-certified women-owned and minority-owned businesses that meet the small business definition and have received the DMBE small business certification. Include plans to utilize small businesses as part of joint ventures, partnerships, subcontractors, suppliers, etc.

B. Plans for Utilization of DMBE-Certified Small Businesses for this Procurement

Small Business Name & Address DMBE Certificate #	Status if Small Business is also: Women (W), Minority (M)	Contact Person, Telephone & Email	Type of Goods and/or Services	Planned Contract Involvement	Planned Annual Contract Dollar Expenditure Amount
Totals \$					

Section C

Respond to how your business has met or exceeded at least two of the following indicators within the past 24 months. Your response may include any good faith efforts made regarding this procurement.

C. Good Faith Effort Indicators by the Bidder/Offeror

1. Identify areas of work your business has subcontracted to DMBE-certified small businesses for other contracts. Include company names, dates, dollar amounts, and percentages on a per contract basis.
2. List research efforts conducted by your business in the past to locate DMBE-certified small businesses by advertising in publications or in the classified section of the newspaper where small businesses are likely to see it. List specific publications and dates.
3. List small business outreach meetings, conferences, or workshops conducted by your firm to locate DMBE-certified small businesses—including the dates, participation numbers, and results.
4. Provide documented correspondence (i.e., certified mail, email, receipt of fax transmissions, etc.) to small businesses from the lists provided by DMBE and other outreach agencies and organizations which indicates your solicitation of such for utilization of subcontracting opportunities on other contracts for which your business has competed.
5. List areas of work which your business has subcontracted with DMBE-certified small businesses for upcoming contracts—including the name of the business, certification number, dates, dollar amounts, and percentages on a per contract basis.
6. Provide documentation of any assistance offered to interested small businesses in obtaining bonds, lines of credit, and/or insurance for any present or past contracts your business has in place.
7. Provide documentation of follow-up on initial contacts with DMBE-certified small businesses (e.g., telephone call logs, emails, certified letters, etc.). Be sure to list the small business name and dates of contact.

